IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY NINTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 10519 of 2005

Between:

1 The Commissioner of Prohibition and Excise, Government of Andhra Pradesh, Prohibition and Excise Complex, 1st Floor, Nampally, Hyderabad.
2 The Deputy Commissioner of Prohibition and Excise, Hyderabad Division, Hyderabad, Prohibition and Excise Complex, 2nd Floor, Nampally Hyderabad.

..... PETITIONERS

AND

Sri E. Narayana Goud, Prohibition and Excise Sub Inspector (Retd),
SHO, Alampur, Mahaboobnagar District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of a "WRIT OF CERTIORARI" calling for the records relating to the orders passed in O.A.No. 1555/1997 with VMA No. 141/1998 on the file of Hon'ble Andhra Pradesh Administrative Tribunal, Hyderabad, dt. 1-7-2003 and quash the same as illegal and arbitrary.

Counsel for the Petitioners: GP FOR SERVICES II

Counsel for the Respondent: ……..

The Court made the following:

ORAL ORDER: (per GB.J.)

The Writ Petition is filed by the State assailing the order passed by A.P. Administrative Tribunal (for short Tribunal) in OA.No.1555 of 1997 and VMA No.141 of 1998 dated 1.7.2003.

2. In the instant case even without allowing the Enquiry Officer to complete the enquiry, the authorities directed the Department to appoint a fresh Enquiry Officer. Assailing the same, the petitioner filed the above OA. The Tribunal, after considering the matter, held that the authorities are not competent to appoint another Enquiry Officer when already an Enquiry Officer was appointed.

3. The learned Government Pleader for Services-II submits that it is always open for the authorities to change the Enquiry Officer depending on the enquiry to be conducted. Therefore, the order of the Tribunal is not sustainable and is liable to set aside.

4. When once the Enquiry Officer is appointed, the disciplinary authority is required to await for his report, and if he is not satisfied with the said report, he can disagree with the same, but he cannot change the Enquiry Officer. Under those circumstances, we do not find any flaw in the order of the Tribunal.

5. In the result, the Writ Petition is dismissed. No costs.

(G.BIKSHAPATHY, J.)

29th April, 2005.

(P.S.NARAYANA, J.)

SSR

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner of Prohibition and Excise, Government of Andhra Pradesh, Prohibition and Excise Complex, 1st Floor, Nampally, Hyderabad.
2 The Deputy Commissioner of Prohibition and Excise, Hyderabad Division, Hyderabad, Prohibition and Excise Complex, 2nd Floor, Nampally Hyderabad.

3 The Registrar, A.P. Administrative Tribunal, Hyderabad.

4 2 CCs to G.P. for Services-II, High Court of A.P., Hyderabad. (OUT)

5 2 CD copies

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